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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,379	03/09/2004	Carolyn McNeeley	29939/03039A	1915

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EXAMINER

PAHNG, JASON Y

ART UNIT PAPER NUMBER

3725

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/796,379	Applicant(s) MCNEELEY ET AL.	
	Examiner Jason Y. Pahng	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Upon further review, the species election restriction requirement made in the last Office action is withdrawn.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and third panels being foldable over the second panel so that the one or more outwardly protruding grating elements of the second panel are covered by either the first or third panels and the one or more outwardly protruding grating elements of the first and the third panels are facing towards the second panel when the first and third panels are folded over the second panel must be shown or the feature(s) canceled from the claim(s).

Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Claim Objections

Claim 6 is objected to because of the following informalities: There appears to be a typographic error. The word "fame" in line 2 should be "frame." Appropriate correction is required.

Specification

The disclosure is objected to under 37 CFR 1.71, as being nonstatutory description. In the specification or drawings, there is no description of injection molded styrene. Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, injection molded styrene, which was not described in the specification. See the above objection to the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Howlett (US 1,984,216).

With regard to claim 1, Howlett discloses a food grater with three grating panels or three panels for grating including:

1. a middle panel (11) disposed between and hingedly connected to a first end panel (12) and a third end panel (15); note that the third panel is a frame panel; and
2. the first and third end panels comprise a latch mechanism for detachably connection (Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 10-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howlett (US 1,984,216) in view of Feer et al. (US 5,312,054), Heard

(US 2,482,180), and Elder (US 6,428,407). Howlett discloses a folding food grater with three sides connected by two hinges and a latch (Figure 1). Howlett does not disclose that the three sides each comprise grating elements. In a closely related art, Feer discloses a folding grater and teaches adding a second grating panel in order to perform a different grating function (22, 38). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett with a two grating panels in order to allow grating in two different sizes, as taught by Feer.

Also in a closely related art, Heard discloses a grater with three sides each comprising grating elements (12, 13, and 14) in order to perform another additional grating function (column 1, lines 46-51). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett (as modified) with three sides each comprising grating elements in order to allow grating in three different sizes, as taught by Heard.

As for the first and third panels being foldable over the second panel so that the one or more outwardly protruding grating elements of the second panel are covered by either the first or third panels and the one or more outwardly protruding grating elements of the first and the third panels are facing towards the second panel when the first and third panels are folded over the second panel, in a closely related art pertinent to the problem, Elder discloses hinged three panels with protruding sharp elements (50) facing inwards for convenient compact storage (Figure 1; column 5, lines 21-23). Therefore, it would have been obvious to one skilled in the art at the time the invention

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was made to provide Howlett (as modified) with hinged three panels with protruding sharp elements facing inwards for convenient compact storage, as taught by Elder.

Claims 2, 3, 8, 13, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howlett (US 1,984,216) in view of Feer et al. (US 5,312,054), Heard (US 2,482,180), and Elder (US 6,428,407) as applied above, further in view of Kaposi et al. (US 6,135,375).

Claims 2 and 15 call for a truncated triangular pyramid configuration. In a closely related art, Kaposi discloses a food grater with a truncated triangular pyramid configuration in order to provide stable footprint (Figure 1). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett (as modified) with a truncated triangular pyramid configuration in order to provide stable footprint, as taught by Kaposi.

Claims 3 and 16 call for a cap. Kaposi discloses a triangular cap in order to provide a grip at the top (column 1, lines 41-45). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett (as modified) with a cap in order to provide a grip at the top, as taught by Kaposi.

Claim 8 calls for a foot rest. Kaposi discloses a foot rest (24) in order to add friction at the base. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett (as modified) with a foot rest in order to add friction at the base, as taught by Kaposi.

With regard to claim 13, Kaposi discloses that three or four convergent faces form his pyramid configuration (column 1, lines 50-53).

Claims 5-7, 9, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howlett (US 1,984,216) in view of Feer et al. (US 5,312,054), Heard (US 2,482,180), and Elder (US 6,428,407) as applied above, further in view of Himmighofen et al. (US 6,082,645).

With regard to claims 5 and 18, Howlett (as modified) discloses hinges but does not call for living hinges. In a closely related art, Himmighofen discloses a food grater with a living hinge (13) in order to avoid using a multiple moving parts for a hinge. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett (as modified) with living hinges in order to avoid using a multiple moving parts for the hinges, as taught by Himmighofen.

With regard to claims 6, 7, and 18, Himmighofen's hinges are plastic and part of a frame for a grater. As for the metallic grating panel, Feer teaches that graters or grating panels typically are metal.

With regard to claim 9, Examiner takes an official notice that the use of injection molded styrene for the frame is obvious and well known in the art. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett (as modified) with an injection molded styrene for the frame because it is obvious and well known in the art.

Claims 4, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howlett (US 1,984,216) in view of Feer et al. (US 5,312,054), Heard (US 2,482,180), Elder (US 6,428,407), Kaposi et al. (US 6,135,375), and Himmighofen

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et al. (US 6,082,645) as applied above, further in view of Brousseau et al. (US D491,774).

Claims 4, 17, and 19 call for the cap to be connected by a hinge. In a closely related art, Brousseau discloses a food grater with a cap connected by a hinge in order to pivot the cap from a closed position to an open position (Figure 8). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Howlett (as modified) with a cap connected by a hinge in order to pivot the cap from a closed position to an open position, as taught by Brousseau.

With regard to claim 20, Himmighofen's hinges are plastic and part of a frame for a grater, as discussed in claims 6, 7, and 18. As for the metallic grating panel, Feer teaches that graters or grating panels typically are metal, as discussed in claims 6, 7, and 18.

Conclusion

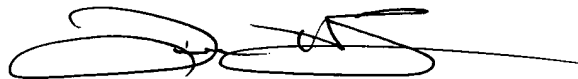
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y. Pahng whose telephone number is 571 272 4522. The examiner can normally be reached on 9:00 AM - 7:00 PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571 272 4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JYP

A handwritten signature in black ink, appearing to read 'D. Banks', with a long horizontal line extending to the right.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700